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Social, economic and environmental policy complementarity in the South African mining sector

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Working Paper 2018-7

Social, Economic and Environmental Policy Complementarity in the South African Mining Sector

Sophie Plagerson and Lauren Stuart

prepared for the UNRISD project
New Directions in Social Policy:
Alternatives from and for the Global South

May 2018



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The project examines the emergence, nature and effectiveness of recent developments in social policy in emerging economies and developing countries. The purpose is to understand whether these are fundamentally new approaches to social policy or welfare systems which could offer alternative solutions to the critical development challenges facing low- and middle-income countries in the twenty-first century. This research aims to shed light on the policy options and choices of emerging/developing countries; how economic, social, political and institutional arrangements can be designed to achieve better social outcomes given the challenges of the contemporary development context; how the values and norms of human rights, equity, sustainability and social justice can be operationalized through “new” social policies; and how experiences, knowledge and learning about innovative approaches can be shared among countries in the South. For further information on the project visit www.unrisd.org/ndsp.

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Acronyms

AMCU	Association of Mineworkers and Construction Union
ANC	African National Congress
BBBEE	Broad-Based Black Economic Empowerment
BEE	Black Economic Empowerment
CCMA	Commission for Conciliation, Mediation and Arbitration
CEO	Chief Executive Officer
COSATU	Congress of South African Trade Unions
CSI	Corporate Social Investment
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
DEA	Department of Environmental Affairs and Tourism
DMR	Department of Mineral Resources
DPME	Department of Planning, Monitoring and Evaluation
EIAs	Environmental Impact Assessments
GDP	Gross Domestic Product
GEAR	Growth, Employment and Redistribution Plan
HIV/AIDS	Human Immunodeficiency Virus / Acquired Immune Deficiency Syndrome
MACUA	Mining-Affected Communities United in Action
MIGDETT	Mineral Industry Growth and Development Task Team
MPRDA	Mineral and Petroleum Resources Development Act
NDP	National Development Plan
NEDLAC	National Economic Development and Labour Council
NEMA	National Environmental Management Act
NGO	Non-Governmental Organization
NGP	New Growth Path
NUM	National Union of Mineworkers
RDP	Reconstruction and Development Plan
ZAR	South African Rand

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Abstract

This paper considers the complementarity of social, economic and environmental policy in South Africa, using the mining sector as a case study. The mining sector has been chosen due to its unique position as a backbone of the South African economy, its historical significance and impact on social conditions, and its key role in shaping social policy. The paper considers policy complementarity as critical for social, economic and environmental development in order to achieve optimal redistributive outcomes, and develops an analytical framework for assessing policy complementarity through the dimensions of “autonomy”, “alignment” and “adjustment”.

The paper assesses the policy complementarity of pre- and post-apartheid policy mandates; and the intersections between policy actors from the state, the mining industry, labour and civil society. This analysis finds that intersectoral policy connections are necessary, but not sufficient, for the achievement of optimal redistributive outcomes. While South Africa benefits from a robust intersectoral post-apartheid legislative and policy framework, and progress has been made in several areas, significant challenges remain as evidenced by the slow pace of legislative reform, institutionalized political corruption, low levels of trust between stakeholders, differing perspectives on the meaning of “transformation” and who is responsible for its attainment, and internal divisions in the labour sector.

The paper concludes that three factors are of particular importance in promoting policy complementarity: the presence of multilateral platforms to accommodate dialogue and negotiation between stakeholders to develop the social pacts required for sustainable development; the retention of sectoral expertise within state structures to enable the effective intersectoral implementation of policy; and that policy be enshrined in legislation, protected and enforced by a strong court system.

At the time of their collaboration with UNRISD, Sophie Plagerson and Lauren Stuart were researchers at the Centre for Social Development in Africa, University of Johannesburg, South Africa.

1. Introduction

This paper examines the nature of policy complementarity in the South African mining sector, and the ways in which policy complementarity can support the achievement of optimal redistributive outcomes. The study develops and applies an analytical framework that examines the intersections between social policies, economic policies and environmental policies in their design and implementation. The mining sector is not a “social policy sector” in the narrow sense of the term but, as this paper shows, it has played a key role in the development and realization of social policies in South Africa, both before and after apartheid. While the mining sector has historically held a somewhat residual approach that views social policy as a response to individual risk and vulnerability, this study applies an analytical lens that views social policy as a systemic component of social, economic and environmental development (Mkandawire 2004).

There has been a resurgence of interest in understanding the complementarity of social, economic and environmental policies. Policy analysts such as James Midgley and Thandika Mkandawire have highlighted the need for approaches that could overcome the bifurcation of social and economic policy (Midgley 2014, Mkandawire 2012). Environmental policy is also a key component of integrated policy analysis for sustainable development (Elson 2004). The study builds on, and critically assesses, the premise that joined-up policy is necessary to address challenging issues such as poverty and inequality in order to achieve redistributive outcomes. Nonetheless, it is acknowledged that in practice policy intersections are typically played out within state bureaucracies dominated by vertical structures and in the context of multiple competing interests. Therefore, the aim of this paper is to understand the nature, strength and elasticity of the actual linkages between social, economic and environmental policy in the mining sector and to identify factors that promote or hinder policy complementarity.

Post-apartheid South Africa has developed remarkable frameworks for integrated policy making. Yet the current climate is marked by political uncertainty which has placed its democratic governance system under severe pressure, with suspicion both of policy makers and between government departments. At the time of preparing this paper there has been a recent spate of dismissals of cabinet ministers—including the Ministers of Finance and Energy—when at the same time the country is trying to bring its Minister of Social Development to account for mismanaging the payments of cash transfers to more than a third of the country’s citizens. These intertwined trajectories of rhetoric and reality have implications for policy implementation and, therefore, for social outcomes, and form the backdrop against which the analysis of this paper is conducted.

In section 2 of this paper an analytical tool for investigating policy complementarity is developed which can be applied in two ways: first, to the analysis of policy mandates as expressed in major policy documents guiding public policy; and second, to the analysis of the relationships between the policy actors responsible for implementing public policy. The framework identifies three dimensions through which complementarity is assessed: *autonomy*, *alignment* and *adjustment*.

This analytical framework is then applied to the mining sector. Section 3 gives an overview of the mining sector and section 4 tracks the historical development of policy mandates in terms of their intersectoral nature, both under apartheid and post-democracy. Section 5 maps policy actors in the mining sector in terms of their complementarities, including the state, the private sector, labour and civil society.

The mining sector has been purposively selected as a case study to illustrate the nexus between social, economic and environmental policy in practice. There are several reasons for its selection. First, the mining sector has played a key role in shaping and directing the contours of social policy. Second, the sector represents a complex intersection of social, economic and environmental policies that require sectoral and intersectoral technical expertise for their effective implementation. Third, the mining sector presents a fascinating example of multiple bilateral and multilateral relationships held in tension between stakeholders. The industry has evolved considerably over time and is one of the largest employers of low wage workers. Yet historically the mining sector has had little regard for the social and environmental dimensions of its operations due to a primary focus on extracting and shipping bulk minerals to overseas markets. In recent times social unrest in mining communities has highlighted the social and economic conditions of workers and off-mine communities. Furthermore, recent attention to climate change considerations and international commitments has provided new opportunities to scale up and mainstream significant socioeconomic development as an integral part of natural resource policy (NPC 2011, UNECA 2011, Evans 2010).

Section 6 concludes this paper by summarizing the ways in which policy complementarity in the South African mining sector has supported a redistributive paradigm. Analysis of public policy and mining legislation provides insights regarding the design of complementary policies and shows how policy mandates have protected the redistributive agenda over time. The study of inter-stakeholder relations refers to the implementation of intersectoral policy and provides examples of the mixed impacts of concurrent bilateral and multilateral policy-making platforms. The case study also highlights a broad spectrum of views held by different actors regarding the role of the “social” in the mining sector and the allocation of responsibility for social policy between actors. Overall, the findings suggest that intersectoral policy connections are necessary but not sufficient for the achievement of more equitable outcomes for the majority. Institutionalized corruption has emerged as a key threat to policy complementarity and the achievement of national development priorities. A final section reflects on three factors that emerged in the study as significant for the design and implementation of complementary policy making: legislation and the role of the courts, multilateral stakeholder platforms and the retention of sectoral expertise within state departments.

2. Analytical Framework

The concept of policy complementarity is central to this paper’s analysis of social, economic and environmental policy linkages. Complementarity is understood as the relationships between components of a whole which mutually improve each other’s qualities or compensate for each other’s deficiencies in constituting the whole (Crouch et al. 2005). Thus, complementarity is defined in the context of a “whole”, or the achievement of overarching objectives. In this case study the “whole” is the achievement of *sustainable and redistributive goals for the majority of the South African population*. The “components” are social, economic and environmental policy mandates, and their associated implementing actors.

Specifically, social policy is the main focus of interest, in the context of its relationships to economic and environmental policies. Social policy is broadly understood as a means of promoting social well-being, securing a minimum standard of living for all people and ensuring effective and equitable access to a range of basic goods and services (Mkandawire 2004: 19, Patel 2015). Social policy channels collective public efforts with a rich portfolio of policy and institutional instruments in the “spheres of production,

redistribution, protection and reproduction” (UNRISD 2014: 18). Social policy is thus concerned with the enhancement of the productive potential of members of society, the redistribution of resources, the protection of people from the effects of market volatility and other areas of vulnerability, and the reconciliation of the burden of reproduction with that of other social tasks (Adesina 2014).

The analytical framework of policy complementarity developed in this study draws on several relevant literature sources including transformative social policy analysis, institutional complementarity frameworks and the concept of “embedded autonomy”. Transformative social policy emphasizes the relationships between social policy and other areas of policy within a context of addressing poverty and inequality (Mkandawire 2004). Institutional complementarity provides an analytical tool for assessing convergence between institutional goals across policy sectors (Amable 2015). Embedded autonomy establishes a link between the internal configuration of the state and its relationships with other policy stakeholders (Evans 2010).

Three dimensions through which the nature of policy complementarity can be understood are proposed as a basis for analysis: autonomy, alignment and adjustment. Autonomy relates to the internal principles and configurations of social, economic and environmental policy mandates and actors. Alignment and adjustment relate to the relationships between these areas of policy and between the actors responsible for their implementation. To investigate policy complementarity in theory and practice, this analysis is applied to:

- i. Policy mandates (expressed in major guiding public policy and legislative documents); and
- ii. Interactions between policy actors responsible for the implementation of policy mandates (in this study we include the state, the private sector, labour and civil society).

We explain each of these three dimensions in turn.

Autonomy refers to the internal arrangements of each “component” that constitutes the policy “whole”. We include three aspects of autonomy that can influence complementarity outcomes: technical expertise, such as specialist knowledge of the potential social impacts of prospective mining operations on communities; administrative capacity, for example within an environmental department for the sustainable implementation of waste disposal policy; and freedom from clientelism. A policy complementarity analytical framework therefore acknowledges the need both for sectoral policies and for the vertical organizational structures that comprise typical government administrations. The interface between sectoral and intersectoral policy mandates and actors is key to complementary policy making. This draws on Peter Evans’ concept of “embedded autonomy” which describes the concurrent need for an independent and capable state, free from clientelism, and the need for strong state-society relations, particularly with the private sector and increasingly with civil society, to support a nation’s development (Evans 2011). Autonomy promotes complementary policy making through specialist knowledge in each sector and an efficient and independent administration which is eager and able to cooperate with other line ministries or policy actors. Autonomy may hinder complementary policy making when it fails to transcend inward-looking silo-type cultures, in which narrow agendas dominate and are subject to rent-seeking behaviour.

Alignment (or coherence) expresses the extent to which policy frameworks and policy implementation strategies are conceived, planned and implemented as interdependent and aligned to similar cross-sectoral goals (Amable 2015). The overarching goals represent the “whole” to which different components of public policy mandates and institutions belong. This dimension of alignment highlights the degree of *intentionality* with which policy documents and policy actors design and implement policy according to a broad intersectoral mandate. Furthermore, we recognize that within complex systems certain sectors or departments may be identified to play a dominant role, with other sectors or departments in a supportive role. This sets up hierarchy as an important concept in relation to the analysis of policy alignment (Amable 2000). *Hierarchy* refers to the extent to which one policy sector is mandated to drive other sectors, or perceived to have dominance among policy actors, within a coherent system. Importantly for analytical purposes one must identify against which overarching goals complementarity is being assessed (for example social and economic policy might be complementary for the sake of achieving economic efficiency but not for achieving redistributive efficiency) (Amable 2015). In this paper, complementarity of social, economic and environmental policy is defined against the broad goals of achieving redistributive and sustainable outcomes for the majority of the population, in line with the overall project theme.

Adjustment results from sociopolitical negotiations and compromises rather than coherent policy alignment. This form of pragmatic complementarity differs from strategic alignment because it lacks intentional alignment with overarching goals that transcend narrow sectoral or institutional interests. Adjustment is dependent on an expedient overlap between different policy agendas. The extent to which policy frameworks and policy actors’ agendas overlap provides an indicator of the strength of intersectoral linkages. An analysis of adjustment within policy frameworks and between policy actors is an indicator of the degree of equilibrium or instability in policy processes (Samson et al. 2015).

Combined, the concepts of autonomy, alignment and adjustment give an indication of the level of intersectoral synergy, or lack thereof, for the purposes of achieving national development priorities. Table 1 summarizes this analytical framework.

Table 1: Complementary policy analysis—alignment, adjustment and autonomy

<i>Dimension</i>	<i>Policy mandates</i>	<i>Policy actors</i>
Autonomy	To what extent do policy mandates recognize the intrinsic values of social, economic and environmental goals respectively? Are sectoral policies informed by high levels of technical expertise?	What levels of technical expertise do policy actors and institutions have? To what extent do they have independent administrative capacity or are they subject to clientelism?
Alignment	Do policy mandates propose a coherent vision for complementary policy making? If so, what is the overarching goal? Are any hierarchies between social, economic and environmental policy goals envisaged?	Do policy actors share a common vision for redistributive and sustainable outcomes for the majority of the population? How is this vision or lack thereof reflected in the relationships between actors?
Adjustment	Are there areas of intersectoral ambiguity in defining the roles and relative influence of social, economic and environmental interests?	What overlap, if any, is there between social, economic and environmental institutional agendas? How are these different agendas negotiated in the relationships between policy actors?

This paper applies the framework contained in table 1 through a literature review to answer the following research questions: In what ways does policy complementarity support the achievement of redistributive and sustainable outcomes?

- In terms of **policy complementarity in policy design**: What are the intersections between social, economic and environmental policies in policy mandates (public policy and legislative documents)? In what ways have these supported a redistributive paradigm?
- In terms of **policy complementarity in policy implementation**: What are the intersections between social, economic and environmental policies in the implementation of policy through the actions of the state, the private sector, labour and civil society? In what ways have these intersections supported a redistributive paradigm?

3. The Mining Sector in South Africa—Overview

Mining has shaped the social, economic and environmental landscape in South Africa like no other sector. The sector comprises all mining and quarrying activities, supplier industries and downstream beneficiation of the minerals that are mined. Though now in decline, the mining sector has formed the bedrock of the South African economy since minerals were first discovered in 1886. Endowed with a rich diversity and abundance of natural resources, South Africa is a leading producer and supplier of more than 50 different minerals including gold, platinum and coal. In 2013 there were 1,712 mines and quarries producing primary commodities (RSA 2015). Mining has evolved to become highly sophisticated, has provided the impetus for the development of extensive physical infrastructure and has incentivized the development of other industries, such as manufacturing, financial and legal services (NPC 2011).

Economic, employment and wage statistics reflect a multifaceted picture of the industry. In 2016, mining directly contributed 7.3 percent to total gross domestic product (GDP) in South Africa (down from 14.7 percent in 1994) (CoM 2017). The sector accounts for a quarter of foreign direct investment, and a third of merchandise exports (Cronje et al. 2014). In 2010, Citigroup valued South Africa's mineral resource wealth as the largest in the world (USD 2.5 trillion), yet with one of the lowest rates of new investment growth (Harvey 2016). In 2016 455,109 people were recorded as directly employed through mining (CoM 2017).¹ This figure represents 5.4 percent of all those employed nationally, and has steadily decreased from a figure of 832,000 in 1986. With regard to wages, the Chamber of Mines calculated that total gross wages rose by 10.3 percent from 2014s ZAR 101.2 billion to ZAR 112.8 billion in 2015 and that the average annual gross wage of ZAR 205,200 per person in 2014 increased by 14.7 percent to ZAR 235,400 in 2015 (CoM 2016). Despite the increases in worker wages, wage inequality in the sector remains acute. In 2013 it was estimated that the Chief Executive Officer (CEO) of the mining company Amplats earned ZAR 117 for every one South African Rand earned by a miner on a wage of ZAR 12,500, a ratio comparable to other companies in the sector (Hobbs and Horne 2015).

From an environmental perspective the energy-intensive nature of mining and pressing demands for increased energy generation have clashed with water scarcity constraints, climate change commitments and the need for the industry to reduce its carbon footprint (RSA 2017). The impact of the mining sector on the environment has attracted attention and advocacy from lobbying groups (Hamann and Bezuidenhout 2007). Acid mine

¹ For comparison purposes, the Quarterly Labour Force Survey (2014, 4th quarter) reported a total of 10.9 million workers in the formal non-agricultural sector (Statistics South Africa 2015).

drainage is a major problem requiring major expenditure to be addressed. Farming communities have decried the effect of mining-related pollution on agriculture with soil degradation and water pollution leading to decreased yields and damaging health impacts, particularly as a result of coal-mining. While the management of such environmental effects during and after the operation of mines has received attention from policy makers, critics have denounced poor enforcement standards (NPC 2011).

Politically, the situation in South Africa reflects the internal conflicts of the mining sector. The lethal shooting by police of 34 miners at Lonmin's platinum mine at Marikana in August 2012 starkly showed the unresolved and contested nature of relationships within the mining sector. Perceptions of risk for investors and for miners alike have come to the fore in negotiations, and a polarization in attitudes to mining is widely evident. Against a national backdrop of declining mineral assets and an international context of mineral resource price volatility, mining is still viewed as a sector of comparative advantage in the South African economy with expectation for the mining sector to support the achievement of social and economic goals (Jourdan 2014). In 2015 the mining sector was described by President Jacob Zuma as "a backbone of the economy" (Zuma 2015). Yet the political establishment is also perceived as hostile to the mining sector, seen as a vestige of apartheid social and labour relations. In light of its multiple roles, and the role of the mining industry in the history of South Africa, it is perhaps not surprising that the South African state is viewed as both hostile to the sector and as obsequious to it; as being both non-interventionist and overly interventionist (Cronje et al. 2014).

Importantly for this study, the mining sector has played a key role in shaping social policy. Through a rapid process of industrialization and urbanization the mining sector has transformed "political and social structures...from those characteristic of a predominantly agrarian society to those of a highly developed industrial society" (Patel 2015: 33). The racialized nature of this process resulted in large-scale poverty, with exploitative and cheap migrant labour systems developed to produce high rates of profits. Subsequently in the wake of the transition to democracy, labour structures were:

Restructured under the impact of a complex, diverse and often contradictory range of pressures that could be described as a triple transition, with political, economic and social dimensions. The political transition from authoritarianism to democracy had created a range of new rights; the economic transition from a domestically oriented economy to a more globally integrated one had led to widespread retrenchments and informalisation of work; the social transition from apartheid to a post-colonial order had impelled profound processes of redistribution of power and access to resources, occupations and skills (Von Holdt and Webster 2005: 4).

Nonetheless, despite these paradigmatic shifts, current social protection systems provided by the state and the private sector still struggle to address the geographic and socioeconomic legacy of disparity produced by past discriminatory efforts to divorce responsibility for economic production from provision for social reproduction.

The policy frameworks and policy implementation actors create a complex milieu in which social, economic and environmental linkages are played out in the mining sector, in ways which we discuss in the sections that follow.

4. Policy Mandates: Autonomy, Alignment and Adjustment

In this section we give an overview of policy and legislative documents in the apartheid and democratic eras. We refer to these documents collectively as policy mandates because the aim is to identify the major direction of policy in each period. Major documents or clusters of documents, which together constitute a policy mandate, are described in terms of their autonomy (how they defend the intrinsic value of social, economic and environmental goals), alignment (how they propose a coherent vision for complementary policy making, and which sectors are prioritized) and adjustment (areas of intersectoral ambiguity that allow for instability in relations between stakeholders).

4.1 *The apartheid era: Dominance of economic interests and inequitable social engineering*

Policy frameworks that shaped the mining sector under apartheid were not aligned with overarching distributive aims for the majority of the population, but with discriminatory goals that advanced the well-being of the minority white population above that of the rest of the population. Within this dispensation a rigid hierarchy of interests propelled economic concerns linked to capitalist development to the centre of the mining sector, which acted as the engine of industrialization in South Africa. Mining activity under apartheid was legislated for sparingly under the Mines and Works Amendment Act of 1956^{2,3} (Sorensen 2011b). The Squatters Law Act of 1895⁴ and the Natives Land Act of 1913⁵ deprived large sections of the Black African population of their land, thus coercing them into wage labour on the mines. The structure of labour procurement during apartheid entrenched an injurious legacy characterized by “migrant labour, the compound system, unsafe work conditions, labour repression and economic exclusion” (Leon 2012: 8). The consequent decline in rural subsistence economies resulted in mass poverty. Social and spatial control was further enforced through the Pass System⁶ which controlled movement to and from the mines and contributed to a cheap migratory labour force, land expropriation and forced removals (MacMillan 2012). Throughout the greater part of the twentieth century unions in the mining industry were violently crushed by companies and the apartheid state, and only in 1982 were African mineworkers able to form the National Union of Mineworkers (NUM) (Bezuidenhout and Buhlungu 2010).

Public policy subscribed to racially differentiated goals and to the primacy of economic interests. It lacked regard for social and environmental concerns which were implicitly subordinated to the driving economic profile of the mining industry. The administrative and technical autonomy of these policy sectors was limited, as was the space for negotiated policy adjustment between economic, social and environmental policy. The reluctant extension of social security benefits to the non-white population over time was driven by economic factors, through an acknowledgement that poverty impacted on labour productivity and therefore had a negative effect on economic output. Similarly, environmental legislation under apartheid was not prioritized and was deemed unnecessary until the 1980s. In line with growing international attention to environmental issues, a milestone in environmental regulation was reached with the passing of the

2 Mines and Works Amendment Act No. 27 of 1956.

3 See Figure 1.

4 Squatters Law Act No. 21 of 1895.

5 Natives Land Act No. 27 of 1913.

6 Pass laws limited the movements of black African citizens by requiring them to carry pass books when outside their homelands or designated areas.

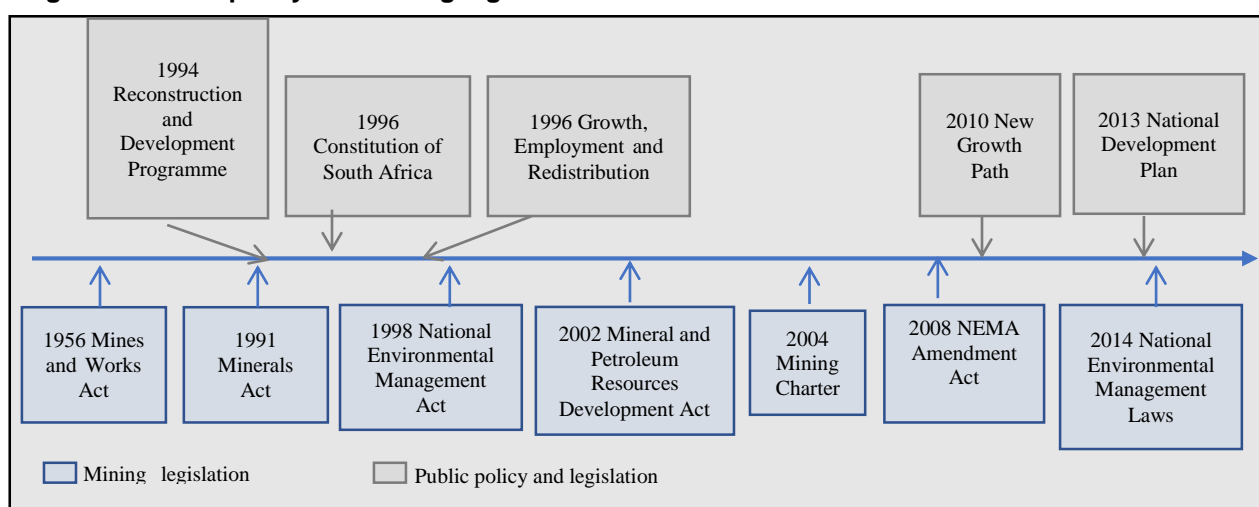
Environment Conservation Act of 1989⁷ “for the effective protection and controlled utilization of the South African environment”.

Overall apartheid era policy mandates lacked alignment between the social, economic and environmental dimensions of mining. Economic interests in the mining sector had a clear lead role. A discriminatory social engineering policy was simply instrumental in supporting the economic pre-eminence of mining interests. Similarly, environmental interests had very limited autonomous representation in apartheid policy.

4.2 The democratic era: Rewriting the linkages in public policy documents

The reform of the formerly exploitative mining sector was a major concern of the first democratic Government, inaugurated in 1994. The timeline in Figure 1 summarizes some of the major public policy documents and mining legislation that have shaped the trajectory of policy intersections in mining. The list is not exhaustive since many other legislative documents such as the Labour Relations Act of 1995⁸, the Broad-Based Black Economic Empowerment Act of 2003⁹ and other related acts have also played a significant role in giving substance to the policy mandates governing the mining sector.

Figure 1: Public policy and mining legislation documents



Source: Adapted from *Report on the Implementation Evaluation of the Effectiveness of Environmental Governance in the Mining Sector* (RSA 2017)

Legislative and policy documents formulated in the immediate post-apartheid era established a strong normative commitment to integrated policy, showing a commitment to a holistic view of social, economic and environmental policy, and demonstrating a high degree of coherence in alignment with redistributive and non-racial goals. As the following discussion shows, the level of strategic alignment between social, economic and environmental policy has arguably decreased over the past two decades as subsequent policy iterations have accommodated more disparate ideological positions.

In order to redress the skewed distribution of social and economic opportunity and to begin the process of reintegrating South Africa into the global economy, the Constitution of South Africa¹⁰ affirmed the interconnectedness and indivisibility of social and economic rights, and upheld the principle of social justice for all with a special emphasis

7 Environmental Conservation Act No. 73 of 1989.

8 Labour Relations Act No. 66 of 1995.

9 Broad-Based Black Economic Empowerment Act No. 53 of 2003.

10 Constitution of the Republic of South Africa (Act 108 of 1996).

on the needs of the most disadvantaged (Patel 2015). Concerning the relationship between social and environmental policy, the Constitution introduced an increased level of strategic integration between the natural and human aspects of environment policy that were inherited by the 1994 Government as isolated and incoherent (Steyn 2013). It also reflected an awareness of the compatibilities and trade-offs between environmental and social goals, focusing on prioritizing people's needs while safeguarding the country's natural assets. The 1996 Constitution outlined an obligation to ensure that nationally beneficial mineral exploitation did not compromise the health of the environment or its people, present and future, and made the connection between the environment, the economy and its people by entrenching “the right to have the environment protected through reasonable legislative and other measures that prevent pollution and ecological degradation... while promoting justifiable economic and social development”.¹¹

The 1994 Reconstruction and Development Programme (RDP) policy framework was closely aligned with the Constitution, being socially oriented with a strong redistributive remit. The RDP recognized that poverty and environmental degradation were closely related and that improvements in living conditions, access to services and access to land would all contribute to reducing negative human pressures on the natural environment in the country. The RDP introduced sustainable development as a guiding vision for ensuring participation, equitable use of natural resources, and protection of working and living environments, in alignment with international agreements (RSA 1997). The challenges in achieving the Government's ambitious social goals that the RDP had come to symbolize were complicated by several administrative and institutional factors, and converged with political contestations (Patel 2015).

The subsequent introduction of the macroeconomic Growth, Employment and Redistribution (GEAR) policy in 1996, which coincided with the abandonment of the RDP programme, represented a decisive moment in the trajectory of South African public policy. GEAR marked an ideological departure from the notion of integrated centralized planning of social and economic policy, as envisaged by the RDP strategy. It also aligned with global trends toward more conservative economic policies following the fall of the Soviet bloc (Schaling, Horne, and Hobbs 2016). GEAR did not mention the need to accommodate environmental considerations in central economic and social planning and rather focused on rapid routes to economic growth including areas that constituted a source of environmental degradation such as the expansion of heavy industries and an increase in the rate of natural resource exploitation. GEAR was widely criticized by trade unions and sectors of civil society as prioritizing a conservative economic policy in response to pressure from national and global business interests at the cost of its previous commitment to social goals (Seekings 2013). While GEAR still held to a redistributive agenda (social spending did not increase but neither did it decrease in this period), it privileged economic development and growth as a means to tackling poverty and unemployment (Patel 2015).

The 2010 New Growth Path (NGP) policy strategy responded to the global financial crisis of 2008-2009 and sought to recalibrate the relationship between economic and social policy in line with a more redistributive mandate. The financial crisis verified that unregulated markets were neither sustainable nor capable of producing the required social well-being outcomes (Patel 2015). The NGP document envisaged the possibility of trade-offs between market-oriented policies and those supporting employment and equity (van der Westhuizen 2015). The NGP further encompassed a vision for renewable energy

¹¹ Sections 24(a)(b) of the Constitution of the Republic of South Africa, Act No. 108 of 1996.

strategies, referring explicitly to jobs in the green economy, for example in the area of construction and maintenance of “environmentally friendly infrastructure” (Rennkamp 2013). However, the mining sector is also referred to as having an important role for job creation through the exploitation of coal and metals for export, and the generation of electricity (Rennkamp 2013). These changes indicate a return to the integrated approach that underpinned the RDP, with social goals accompanying rather than preceding economic goals. However, critics have highlighted that the trade-offs between wages, employment, productivity and profitability were acknowledged but not confronted. They view the NGP as an idealistic vision of an inclusive economic growth course but lacking the gravitas to address recognized structural and institutional hindrances (Nattrass 2011).

Not long after the NGP was endorsed the National Development Plan (NDP) was accepted by Parliament. While the two policy strategies have been presented as compatible, the NDP has overtaken and overshadowed the NGP to some extent given its broader scope. Economic growth, increased productivity, poverty reduction and the building of social cohesion are all present in the NDP’s future policy vision (Patel 2015). The NDP highlights the importance of national planning and envisages a leading role for the state as coordinator and mediator of social, economic and environmental policy, channelled toward the elimination of poverty and inequality by 2030 (NPC 2011). Subject to these overarching priorities the NDP acknowledges the fundamental need for a redefinition of the previously exploitative relationship between the environment and the economy along a sustainable, climate resilient and low carbon development path (Rennkamp 2013). In some ways the NDP establishes a broad, unifying and compelling base for public policy in South Africa. Yet it represents a multiplicity of voices (not necessarily aligned), holding both to a “redistribution through growth” paradigm as well as a normative approach to social and economic justice (Patel 2015, van der Westhuizen 2015). Its broad representation creates space for tackling complex issues such as unemployment but the lack of alignment between various facets of policy (for example market-oriented approaches and a social transformation agenda) may limit momentum for action going forward. In this sense, the NDP is more multi-sectoral than intersectoral in its outlook, lacking a coherent strategy to identify synergies and overcome intersectoral tensions.

The NDP takes multiple approaches to mining. It promotes mining as an economic driver and identifies strategies for expanding mineral production and exports (NPC 2011). In terms of linking mining to social outcomes, the NDP encourages mining companies to invest in enterprises that are owned by historically disadvantaged South Africans and supports preferential procurement for these groups (Phaladi and Odeku 2015). The NDP emphasizes the potential for labour-absorbing and local economic development by the mining sector through supplier industries (such as capital equipment, chemicals and engineering services) and beneficiation. Regarding the environment, the NDP proposes both mitigating measures, such as carbon-pricing, as well as a long-term shift toward a low carbon future, requiring considerable investment in renewable energy sources to be funded by current revenue flows and through changes in the taxation regime.

In summary, this overview of several public policy documents show that despite the partial unfastening of the strategic ties between social, economic and environmental policy, and the twists and turns in the articulation of policy intersections over the past 20 years, there has been a remarkable continuity and frequent returns to the guiding principles of the Constitution (for example in the NDP). While the linkages between social, economic and environmental policy are subject to different ideological premises, it can be argued that the firm legislative basis established in the Constitution has

restrained excessive oscillations away from the founding vision of cohesive policy with a redistributive and sustainable remit. The guiding role of the Constitution can be seen in the ongoing importance accorded to social goals and their articulation within policy documents. While the nature of its relationship to economic and environmental policy remains contested, its importance has not been questioned and remains pivotal to current policy frameworks.

Nonetheless, disparate views on the appropriate hierarchies of social and economic policy (for example should growth precede redistribution?) have loosened the level of intentional integration within policy frameworks and accommodated a more pragmatic negotiated view of policy needing to overcome possible trade-offs between the economic and social sectors. The discussion shows how a growing level of autonomy in the conception of the environmental sector within policy mandates has developed, together with an understanding of environmental protection as an end in itself, to be radically de-linked from previous adverse and exploitative linkages with the social and economic sectors. Yet environmental concerns have tended to be subordinated to social objectives and thus have not been mainstreamed to the extent envisaged in the earliest democratic policy documents, such as the Constitution and the RDP.

4.3 Mining legislation in the democratic era

Mining policy development has mirrored the broader policy milieu described in the previous section. This section shows how the post 1994 legislative landscape has reflected a growing awareness of the need to regulate and protect the autonomy of social and environmental rights. It has introduced integrated economic, social and environmental approaches to regulating the mining industry in order to manage the trade-offs between multiple interests and goals. Yet in the documents discussed below there is an increasingly limited degree of overall coherence and a much greater reliance on a series of negotiated adjustments between social, economic and environmental aims and the actors that they represent. The twists and turns in legislation point to the real challenges in achieving a streamlined and cohesive approach. As a result, sectoral hierarchies continue to be in flux with a lack of consensus around social, economic and environmental priorities. These are reflective of instability in the sector and point to the influence of different interests in shaping the policy iterations which are dealt with in the next section.

Just prior to the transition to democracy the Minerals Act of 1991¹² was passed which introduced some level of regulation, particularly with regard to environmental considerations, but which also transferred mineral rights exclusively to private owners, a move criticized as apartheid's last-ditch attempt to protect the concentration of (white) corporate ownership (RSA 2017, Bello and Harvey 2015). Subsequently a new democratic mineral dispensation was introduced with the Mineral and Petroleum Resources Development Act (MPRDA)¹³ which repealed the Minerals Act and divested custodianship of all South Africa's mineral rights from the private sector to the Government and its citizens (RSA 2016).

The MPRDA encompassed multiple policy strands. In a complex policy milieu, in which the aims of ensuring both sustainable economic growth and redistribution were held in delicate tension, state policy did not pursue a nationalization agenda but identified the state's influence within the mining industry to be "confined to orderly regulation and the encouragement of equal opportunities for all citizens in mineral development"

¹² Minerals Act No. 50 of 1991.

¹³ Minerals and Petroleum Resources Development Act No.28 of 2002 (MPRDA).

(Makwinzha, Mwape, and van Averbek 2002: 1, Capps 2013). The MPRDA reflected national and international trends, including both a renewed recognition of mining as an economic driver and the need to balance the pursuit of profit with the needs of society and of the environment. The Act adopted principles of sustainable development and promoted the integration of social, economic and environmental factors into the planning, implementation, closure and post-closure management of prospecting and mining operations. The Act made provision for small-scale mining, which had been recognized by the RDP as a vehicle to foster broad social and economic growth, though legal and financial barriers for artisanal and small-scale miners to entry were high (Ledwaba 2017).

The MPRDA's commitment to a non-racial South Africa and to promoting equitable access to the nation's mineral and petroleum resources was taken further in the Broad-Based Socio-Economic Empowerment Charter for the Mining Industry (the Mining Charter) (2004) developed between the Government, the mining industry and organized labour (RSA 2002). The Mining Charter aimed to realize the policy of socioeconomic responsibility and to bring historically disadvantaged South Africans into the mainstream of mining. The Mining Charter was intended to direct the mining industry toward substantial and meaningful transformation through: human resource development and employment equity; support to migrant labour, mining communities and rural development; improvement of housing and living conditions; preferential procurement, ownership and joint ventures; and beneficiation (Harvey 2015). A "Mining Scorecard" was developed to track progress toward these aims (Jourdan 2014, Sorensen 2011a).

In addition to the MPRDA, the National Environmental Management Act of 1998 (NEMA)¹⁴ also governs the mining sector in terms of matters related to environmental management. NEMA is the legislative environmental framework in South Africa, defining the environmental management approach that should be integrated across all sectors, not just mining. It contains a statement of environmental principles which incorporates many key principles of international environmental law such as the "polluter pays" principle, the precautionary approach, the principle of sustainable use and the principle of public participation, among others. NEMA also establishes a regulatory framework for the conducting of environmental impact assessments (RSA 2017). NEMA is administered by the Department of Environmental Affairs and Tourism (DEA) and was the first real attempt made by the democratic Government to entrench the right of previously disadvantaged communities to safe, clean environments that are not harmful to their health (for example, it gave workers the right of refusal should they be asked to perform hazardous work) (Fuggle and Rabie 1992).

In the past decade the MPRDA, NEMA and the Mining Charter, and the linkages between them, have undergone repeated reviews and proposed amendments. Delays have been caused by protracted negotiations in several areas of policy. The MPRDA was amended in 2008, but the amended act was never passed. Further amendments were proposed in 2012, but progress has stalled and the amendments are not yet finalized at the end of 2017. The Mining Charter was reviewed in 2010 and a third review was published in June 2017, but was immediately rejected by the Chamber of Mines and is currently on hold. The overall impasse in mining legislation reform suggests gaps in alignment with a common redistributive mandate and that adjustment between stakeholders along multiple agendas is the prevailing means of progress. Several considerations are noted here which relate to the complementarity of economic, social and environmental policies.

14 National Environmental Management Act No. 107 of 1998 (NEMA).

The prioritization of sectoral goals in legislation has become associated with interdepartmental turf wars rather than with a coherent approach to achieving national development goals. This tension is demonstrated by the trajectory of environmental governance in the mining sector. The drafters of the MPRDA (2002) sought to position the mining environmental management framework within the ambit of the NEMA, but also carved out an environmental management regime specific to the mining sector, allowing space for equivocal interpretations in practice (Humby 2015). In 2008 proposed amendments to the MPRDA and NEMA acknowledged the tensions created by the Department of Mineral Resources' (DMR) dual role as both facilitator and promoter of mineral development, and as protector of the environment, and reaffirmed the Minister of Environmental Affairs as the “custodian” of the environment (Sorensen 2011b). The amendments recognized the need for one environment management system, managed by one authority, and thus sought to rebalance the relationship between environmental, social and economic policy frameworks and implementing institutions (Humby 2015). The 2008 legislation made provision for a gradual transfer of authority to the DEA as regulator for environmental purposes of the minerals industry. However, these provisions were overturned by the National Environmental Management Laws Amendment Act No. 25 of 2014¹⁵ which assigned oversight for environmental authorizations to the DMR, with the DEA appointed as the final appeals authority. While in theory these changes sought to respond to the need for streamlined processes, they have resulted in uncertainty and are strongly indicative of shifting hierarchies in the prioritization of economic and environmental interests and jurisdiction.

In a volatile sector such as mining, proposed reforms to mining legislation have struggled to address the need to clarify, streamline and align the social and environmental legislative requirements, particularly for prospective mining companies. Definitional confusion, regulatory gaps, procedural duplications and ambiguities have occurred in the course of iterations of the mining framework over the past 15 years (RSA 2017). In the current system, mining proponents must obtain multiple authorizations and engage in several participation processes with affected stakeholders. These fragmented systems have resulted in “authorisations with conflicting conditions; misaligned timelines with prospecting and mining rights holders running the risk of losing their licences if they waited for the outcome of environmental authorisation processes” (Humby 2015, 116). The “One Environmental System” introduced in December 2014 initiated the streamlining of the licensing processes for mining, environmental authorizations and water use, but it is too early to monitor its impact. A major point of contention that has attracted criticism by investors, with regard to the Mineral and Petroleum Resource Development Amendment bill, is the proposed degree of ministerial discretion in the awarding of mining licences, which as Schaling et al (2016) argue creates uncertainty and opportunities for corruption.

The challenges in moving toward greater intersectoral policy alignment have been exacerbated by a weakening of a common vision for the mining sector. For example, different stakeholders subscribe to the aim of “transformation” as a leading goal for the mining sector, yet the meaning of transformation, and the appropriate route to its achievement, are increasingly perceived not as a shared goal but as incompatible visions which fall into the realm of different sectoral and private interests (see section 5). The lack of consensus concerning the meaning of transformation and the adequacy of socioeconomic targets amplifies the unresolved tension between the goals of promoting socioeconomic development and job creation on one hand, and of achieving economic

¹⁵ National Environmental Management Laws Amendment Act No. 25 of 2014

growth, promoting industrialization and maintaining investor-friendliness on the other, all of which are envisaged in the NDP (RSA 2016).

Overall, adjustment-type rather than alignment-driven processes are increasingly predominating the trajectory of mining legislation development. The tumultuous and unpredictable policy and legislative progress have resulted in a situation of stalemate and disequilibrium. The arena in which inter-stakeholder negotiation is occurring has broadened well beyond policy implementation to drafting the contours of policy itself. The underlying relationships are explored further in the following section.

5. Social, Economic, and Environmental Intersections Between Policy Actors in the Mining Sector

The previous section showed that the new democratic regime offered a remarkable opportunity for a redrawing of public policy frameworks. The significant changes at a policy level which have redrafted the interconnections between social, economic and environmental policy have had clear impacts in practice. Yet within the mining sector there are few easy synergies and many intrinsic tensions between social, economic and environmental goals. The realities remain complex and continually negotiated between international, national and local vested interests with different notions of respective responsibilities (for example for the achievement of social and environmental outcomes).

In the sections that follow, some ways in which different policy stakeholders (the state, the private sector, labour and civil society) have internalized and restructured themselves around policy intersections are highlighted. The analysis is not exhaustive but contributes to an overall picture of the dimensions along which intersectoral complementarity is negotiated within the South African public policy space. In each section, a brief overview of the policy actors is followed by an analysis of their levels of autonomy and how their relationships with other stakeholders are aligned with national development goals or adjusted according to common interests.

5.1 The state: Maintaining a delicate balance

Overview

An analysis of the state's autonomy, alignment and adjustment takes into account that the state is not a monolithic entity but in itself is representative of a broad coalition of institutions and interests, stretched across multiple departments and levels of Government. State intervention is constantly being forged in the context of challenges from within the country (for example past and present inequalities in labour markets, slow economic growth or high levels of unmet health needs) and from outside (for example through the insecurity of global financial markets).

The state wears many hats in relation to mining, as both a player and as a referee in the industry. First, the Government plays a role in promoting the mining sector and creating an enabling and transparent regulatory environment to ensure the availability of minerals, prospecting and mining technology, and to facilitate access to energy and water. More directly the state is an active participant in the sector through state-owned mining companies (RSA 2015). Second, the state promotes the well-being of the labour force. Third, the state has a remit to preserve the environment. These three roles broadly represent economic, social and environmental sector interests respectively.

Autonomy

In each of its roles the state requires high levels of technical expertise and insulation from political patronage for complementary policy making to be achieved. Lacunae in technical expertise are evident in several areas of policy implementation. Large variations in the level and types of skill and capacity in the DMR, the DEA and the Department of Water and Sanitation have limited the state's ability to direct economic strategy, to effectively review applications and oversee the awarding of licences, and to monitor and adequately enforce prevailing standards across the sector. This has resulted in onerous, delayed and conflicting assessment processes, and fragmented communication across national, regional and local Government spheres. These issues have been compounded by high staff turnover resulting in limited institutional memory (Cronje et al. 2014, RSA 2017). Seekings and Natrass also highlight the lack of state capacity to engage constructively with business due to little experience or understanding of working in the private sector (2015). This was confirmed in an evaluation of environmental governance in the mining sector which concluded that the DMR often lacked the capacity and technical expertise to assess approvals of environmental management plans by prospective mining companies, which were as a result unlikely to ensure environmental sustainability (RSA 2017).

Efforts to direct economic policy toward the state's redistributive agenda have also highlighted technical challenges. For example, state incentives to promote beneficiation (downstream processing) have flip-flopped over time in the light of changing wisdom regarding the potential for beneficiation to contribute to inclusive development, as well as the industry's resistance. Similarly, some of the economic aspects of the MPRDA have meant that mineral assets are dispensed on a first come, first served basis, often well below their market value, and without the insertion of fiscal and developmental criteria (jobs, infrastructure, product pricing and both up and downstream linkages) (Jourdan 2014). Other recommendations within the NGP and the NDP for reform of the tax regime to optimize developmental outcomes, for example through differential resource rents (that allow the state to claim higher tax rates for above average profits to investment), still remain elusive (Harvey 2015).

The state's ability to maintain political and administrative impartiality has also been highlighted as a challenge in several contexts. The need identified in the NDP "to stabilise the political-administrative interface" is evident in the mining sector where high profile cases of collusion between local and international mining magnates and politicians in the ruling party have been made visible in the public domain (van Wyk et al. 2008, Seekings and Natrass 2015). In the implementation of the affirmative Broad-Based Black Economic Empowerment BBBEE policies, institutional and technical limitations and weak insulation from political patronage have limited impact. While women, youth, people with disabilities and people in rural areas have benefited to some extent, and representation at managerial level has increased (CoM 2016), reviews have shown that individuals with political and economic connections have disproportionately benefited from the policy thus preserving and reproducing existing systems that concentrate wealth in key sectors of the economy and existing structures of production (Patel and Graham 2012). Recently, a "state capture" report, released by the Public Protector in 2016 implicated the current Minister of Mineral Resources (appointed in 2015) in the awarding of irregular mining deals (Madonsela 2016). Details gradually emerging around these deals suggest that they are the result of an insidious and corrupt network that has been repurposing the state away from the development agenda and diverting resources into the hands of unproductive elites, a cause for great concern (Bhorat et al. 2017).

Alignment

Overall, over the past two decades the state has overseen seismic shifts in the promotion of an integrated agenda and particularly of social and environmental aims in the mining sector, to counterbalance the dominance of economic interests. The achievement of redistributive goals has been pursued through several channels including changing patterns of ownership, training programmes, tax collection and redistribution, and compliance with the Mining Charter (Webster 2013). The state has increased its capacity to collect taxes and efficiently expanded its ability to spend revenues on pro-poor social assistance programmes (NPC 2011, World Bank 2014). Effective regulation and compliance of the labour market has increased. Active labour-market policies have been instituted to remove discrimination based on race, gender and disability, and to nurture opportunities and access to employment, with tax incentives for companies to invest in skills development (Patel 2015).

Several channels for consolidating the multiple and fragmented interests represented both within the state and between stakeholders have been initiated (in the mining sector and more broadly). Over time the central location for intersectoral coordination within Government has shifted. The RDP office was an early attempt to establish an institution with responsibility for centralized coordination of economic and social transformation. After the closure of the RDP office, under the presidency of Thabo Mbeki, the Treasury and Vice Presidency became the central coordination hubs, supported by interdepartmental “clusters” of ministers.

Other examples of inter-stakeholder platforms include the National Economic Development and Labour Council (NEDLAC) which was established in 1995 as a statutory tripartite institution for social dialogue on economic, labour and development policy between Government, labour, and organized business (NEDLAC 2005). In the years after it was established NEDLAC played a major role in the development of labour-related legislation (Parsons 2007). Subsequently however its role has become less prominent (Budlender 2011). The state’s ambivalence to NEDLAC was already evident in 1996 when the GEAR strategy deliberations by-passed NEDLAC and outcomes were declared as non-negotiable. One analyst reports that the calibre of representatives at NEDLAC is no longer that of prominent politicians but rather of junior officials, without decision-making authority (Hobbs and Horne 2015). Though it remains an important forum for bringing together a broad spectrum of interests, bilateral negotiations between labour and business with the state have frequently occurred outside its boundaries (Nattrass 2013). The NDP observes that NEDLAC has not been able to overcome the low levels of trust between state, business and labour which remain a stumbling block toward faster economic development (NPC 2011).

The Mining Industry Growth and Development Task Team (MIGDETT) established by the DMR in 2008 in response to the global economic downturn, brought together representatives of several state departments, labour and business. The task team’s aim was to pursue the sustainable growth of the mining industry together with a transformation agenda. This platform was initially viewed as increasing communication, cooperation and consensus between parties (Leon 2013, CoM 2017). However, commenting on the process of the 2017 Mining Charter review, the Chamber of Mines observed that the DMR had opted for a series of meetings with one set of stakeholders at a time, leaving business feeling excluded from consultation processes in contrast with the consultative processes of the 2004 and 2010 reviews (CoM 2017).

Policy intersection has not been a major focus of the current political leadership. However, several coordination functions have been pursued by the Department of Performance Monitoring and Evaluation (DPME) unit within the Presidency. Adopting the NDP as the country's socioeconomic development blueprint, the DPME has applied the recommendations of the National Planning Commission to align sector plans and policies, programmes, projects and operations, as well as budget and skills investment and resource allocation with the NDP. As part of this project, Operation Phakisa ("hurry up" in Sesotho) was launched in 2014 with the ultimate goal of boosting economic growth and creating jobs. At a meeting of the Phakisa project, in the wake of extended strikes in the platinum mines, the DPME Minister summarized the functions of Government in the sector as having the "holistic objective of unlocking investment in exploration and mining activities while optimizing the developmental impact on the sector on the economy, the work-force and on surrounding communities" and acknowledged the need to address the issues underlying the upsurge in adversarial industrial relations (Radebe 2015).

In the past two years the state's credibility in hosting inter-stakeholder deliberative forums has been severely compromised (Bhorat et al. 2017). Bhorat documents "concerted efforts underway that undermine collective political institutions in the Executive, including Cabinet" and the role played by "handpicked groups, masked as Inter-Ministerial Committees, that are able to function in an unaccountable manner". These points of concern have clear implications for the role of the state as coordinator of its economic, social and environmental roles, and its responsibility to direct the sector toward more equitable sharing of the value created by mining activities through transformation of ownership structures inherent to the mining sector and redistribution of the resources accruing through revenue collection from the mineral sector. Indeed evidence has accumulated in the public domain of a widening gap between state rhetoric and real alignment with long-term development goals: "the intentions of the governing party's commitment to 'radical economic transformation'...is being used as an ideological smokescreen to mask the rent-seeking practices of the Zuma-centred power elite" (Bhorat et al. 2017: 3).¹⁶

Adjustment

The previous section has shown a gradual weakening of institutional and political adherence to alignment with national development goals. Within the state, the political will to maintain a broad coalition and to reconcile the diverse interests of Government departments and parastatals has met significant challenges. The mix of policies reflect the absence of a hegemonic set of ideas (Seekings and Nattrass 2015). While Treasury has argued for greater workplace flexibility, the Department of Labour has supported the expansion of the number and coverage of bargaining councils (Webster 2013). As mentioned in section 4, there has been a long-standing dispute between the DMR and the DEA regarding where the power of environmental authorization should lie, highlighting the tensions in the state's dual roles as regulator and promoter of the mining industry (Humby 2015).

Overall, in the same way that the Government's centralized planning functions have coexisted alongside independent departmental agendas, the state's adherence to multilateral platforms for policy implementation (in the mining sector and beyond) has been inconsistent. The tendency of state entities to by-pass collegial forums in preference for bilateral channels has historical roots. Friedman and Groenmeyer (2016) describe the tripartite relationship between state, business and labour as complex and resulting in the

¹⁶ Jacob Zuma was president of South Africa from 2009 until his resignation in early 2018.

seemingly contradictory outcome in South Africa whereby a relatively market-friendly environment coexists with a vocal and powerful labour movement that has preserved a generous set of rights and high levels of wages for workers. Friedman and Groenmeyer (2016) further suggest that this can be explained in part by an implicit bargaining arrangement between the ruling party and trade unions, whereby the union movement has a veto over labour law but does not interfere on macroeconomic policy. In recent years, fragmentation of the labour movement has required greater effort from the state to maintain this relationship. As described earlier, the state has from early on, under international and local demand for liberalization, gradually leaned toward more pro-market positions. As Seekings and Nattrass (2015) argue, this has not always equated to pro-business positions and the state's relationship with business (particularly domestic) has been ambivalent. As a result of the “active” relationship with labour and more “passive” relationship with business, a somewhat parallel and independent relationship between social and economic policy has resulted in economic growth that has adapted a capital-intensive, relatively jobless growth path, characterized by high labour costs.

Summary

In summary, the state's alignment with a redistributive mandate is dependent on its coordinating role, enacted through the Presidency and other multilateral institutions, and the cumulative actions of its departments and levels of Government. In its coordinative function the state has at several points pursued multilateral platforms such as NEDLAC and MIGDETT, moving toward a common vision in line with the development goals of public policy, most recently in the form of the NDP. However, political appointees, particularly within the DMR, have frequently by-passed these platforms and pursued separate bilateral “adjustment-type” relationships with stakeholders. While these relationships tend to be justified by state actors as prioritizing relationships in line with a more redistributive agenda (and side-lining actors perceived to be resistant), these judgements are clouded by the serious lacunae in terms of governmental autonomy, namely gaps in technical and administrative expertise, and a lack of insulation from patronage-type relationships, that contradict the redistributive mandate. Overall, in practice a clear hierarchy of interests has emerged over time. The state has prioritized economic and labour interests separately, thus failing to achieve the integrated policy vision set out in its founding democratic documents. Social aims have been a clear cross-cutting focus of the state, whose achievements in the mining sector have arguably been compromised by the failure to establish strong multilateral institutions, and are as a result contingent on the subtleties and undercurrents of a complex network of individual and institutional relationships. Within the state, environmental priorities have remained ancillary and largely separate from social interests and have struggled to break out of narrow institutional confines to influence the direction of the mining sector as a whole.

5.2 The mining industry: Our contributions go above and beyond

Overview

As in the case of the state, an analysis of how the private sector has contributed to implementing complementary social, economic and environmental linkages in practice is complex since the sector is varied and far from monolithic. The capital and skill-intensive mining industry is dominated by large companies against which small and medium-sized firms struggle to compete. However, the nature of the conglomerate-led mining sector is changing (RSA 2015). For example, many conglomerates have unbundled their operations and focus on core competencies thereby reducing their monopoly in the market, the recent debt crisis has increased openness to state regulatory intervention, and

the rise of Chinese and other Asian economies has also influenced the balance of power within the industry. Yet in its current state, as Ha-joon Chang argues, South Africa has “energy-mineral conglomerates, with unusually globalized links and capabilities for firms from a developing country” (Chang 2010: 88). Despite variation between companies within the mining industry, generally the relative size and power of mining houses is important in understanding the direction of mining in South Africa and the degree and speed with which transformative outcomes are occurring (or not). While licences have been awarded to small-scale and artisanal miners, legal and financial barriers to registration have limited the scope, size and influence of this part of the sector (Ledwaba 2017). Despite policies to deracialize the ownership of capital, the process has been slow (Fig 2007).

Autonomy

In terms of autonomy, it is important to understand in what ways the industry’s technical expertise and administrative capacity is mobilized toward the achievement of national development goals. Technical expertise is the hallmark of the industry, which prides itself on applying its accumulated specialist knowledge and experience to the ongoing modernization, transformation and increased effectiveness of the sector (CoM 2017). Business’s comparative advantage is perceived by mining companies as offering a significant contribution in engagements with other stakeholders, for example informing interpretations of environmental and health and safety regulation with the DMR, which require in-depth understanding of mining practice and technology (CoM 2017). Nonetheless companies have acknowledged technical and managerial gaps in their implementation of sustainable development goals, in handling social and environmental risk, and in sponsoring community development. While international trends and domestic policy have undoubtedly caused mining companies to expand their knowledge in labour law, social impacts and the environmental sustainability of mining, still acute industrial conflict still highlights serious challenges (Hamann and Bezuidenhout 2007). Prospective and operational mining companies have also articulated the ways in which they feel that their autonomy is curtailed by excessive administrative requirements and inconsistent regulation that leads to extensive delays in granting licences, and does not necessarily involve local communities, thus restricting the opportunities for restructuring the way mining operations are undertaken (Cronje et al. 2014).

Overall, the private sector has deployed its technical expertise and administrative capacity through both formal and informal channels both by engaging with multi-stakeholder forums but also in partisan ways to preserve the interests of the industry’s members, through advisory roles, lobbying of the state, adopting favourable interpretations of regulatory ambiguities and exploiting loopholes. In some instances, technical and legal expertise has been seemingly channelled toward avoidance of weakly enforced environmental standards rather than compliance (RSA 2017). The business sector is highly conscious of the state’s limited ability to regulate and corporate lobbyists have pushed for state recognition of less formal regulation and more co-regulation and voluntary initiatives, for example in NEMA (Bezuidenhout et al. 2007). The manner in which BBBEE regulations have been implemented has also been subject to criticism for empowering a small elite without fundamentally restructuring patterns of ownership. The mining lobby has also engaged in litigation to contain the implications of BBBEE requirements (CoM 2017). Regarding compliance with environmental standards, environmental impact assessments (EIAs) are required as part of the licensing process and are often conducted by private environmental consultants. EIAs have been criticized both as being pliable toward the interests of mining houses or as neglecting the health of communities that live on or near mines, who often lack access to adequate municipal

services such as piped water and are therefore more reliant on their environment for survival (WWF 2012).

Alignment

An analysis of the mining industry's level of alignment in practice with a common vision for redistributive and sustainable outcomes for the majority of the population highlights fundamental paradigmatic differences between stakeholders in what is meant by "transformation" and how it should be pursued. The Chamber of Mines, which acts as the principal advocate of the major policy positions endorsed by mining employers, argues that it has embraced a holistic and sustainable approach to mining in line with the NDP (CoM 2017, RSA 2015). Pressure on business to move toward responsible social and environmental practice has come from global shareholder and consumer activism, adherence to regulation and codes of conduct, media coverage and civil society campaigns (Fig 2007). There is a broad understanding within mining houses that their primary contribution to the nation's redistributive mandate is through employment creation and tax revenues, which the Government is then responsible to redistribute in line with its social goals of poverty and inequality alleviation (Cronje et al. 2014). The private mining sector typically views itself as overburdened with responsibility for transformative socioeconomic outcomes (that it sees as falling under the state's remit), in an industry that is already under pressure (Cronje et al. 2014, CoM 2017, 2016). These views are captured by a leading mining analyst, quoted in the report *Digging for Development*, that "the shift to a more equitable sharing of the value created by our mining enterprises is necessary and understandable, but based on recent evidence it appears that the pendulum has swung too far and that shareholders are now right at the back of the queue" (Cronje et al. 2014: 5). Mining companies surveyed by the Institute of Race Relations drew attention to their increased responsibility (for example through wage increases above increases in productivity), and spoke of frustration at the perceived disjuncture with government in service delivery, feeling that at times they bear the brunt of lack of delivery where the state has not fulfilled its responsibilities (for example to maintain roads and provide electricity and water to communities) (Cronje et al. 2014). Indeed, mining companies have to different degrees adopted an increasingly active role in monitoring compliance with social and labour plans and the Mining Charter, and have been at pains to demonstrate the sector's progress against set targets including responsibility for housing employees and accommodating family living, and investing in skills development (Kane-Berman 2017, CoM 2017). Mining houses have also spent large sums on antiretroviral treatment and adopted measures to limit risks to health and safety, and reduce fatal injuries and occupational diseases (Cronje et al. 2014, CoM 2014).

The private sector has increasingly become directly involved in the implementation of social programmes through Corporate Social Responsibility (CSR) initiatives. Several of South Africa's mining companies have been prominent in corporate social investment (CSI) expenditure with support including housing schemes, school and clinic building programmes, contributions to infrastructure upgrading, adult literacy programmes, mitigation measures around mine closures, support for black-owned small businesses, and research and policy analysis (Capps 2013, Cronje et al. 2014, Paterson and Kotze 2009). The more socially conscious mining houses have investigated various diversification options and opportunities for genuine economic participation which communities could potentially benefit from if and when mining operations cease. The Chamber of Mines claims to spend more on social programmes than any other sector of the economy, with expenditure of ZAR 1.3 billion in 2011-2012 (Mabuza, Msezane, and Kwata 2010). Yet, these interventions have not been sufficient to reverse levels of social disadvantage and degradation in off-mine communities, and views vary regarding whether CSI has overall

played an integrated and transformative role or a compensatory and conscience-appeasing role in the practices of mining houses (van Wyk et al. 2008).

Critics of the private sector's efforts to embrace a national developmental agenda argue that the prevailing macroeconomic paradigms have pitted the interests of private capital against developmental social, economic and environmental goals, favoured corporate globalization and financialization of the mining sector, and permitted the export of domestic resources and control. In this view, the corporate mining sector has dominated the stakeholder landscape and restricted potential for a sector-wide commitment to a concerted programme of industrial expansion and diversification (Fine 2010, Mohamed 2010). These critiques are extended to CSI initiatives which remain primarily in the sphere of philanthropy and largely separate to the structures and daily operations of most companies, whose core business may be causing disproportionate social or environmental damage, with little in the way of a contribution to transformative, integrative policy linkages (Bezuidenhout et al. 2007, Mushonga 2012). Despite significant pockets of CSI innovation with holistic social and environmental approaches, typically social and environmental concerns have not substantially redirected the business modus operandi and consumer-led demand for socially, and even more so for environmentally, responsible business is not yet sufficient to drive changes in practice (Rockey 2013). It is still common for issues of environmental compliance and enforcement to be viewed as detracting from profit rather than as an incentive for restructuring of systems, structures and goals (Giamporcaro, Pretorius, and Visser 2010).

Differing interpretations of transformation and of the respective responsibilities of the state and business are clearly evident in these different perspectives. Within the paradigm largely held to by mining houses, social development outcomes are maximized when profits are highest:

The aim is to find a way to share the economic spoils of the country either through legislation or not. It's easier to share something that is growing as opposed to something that is shrinking. No-one had anticipated the global financial crisis of 2008/2009. The mining industry is currently not in a good space due to market conditions beyond our control, but in a large measure this is significantly responsible for the slow pace of transformation. Transformation becomes a possibility when there is economic growth and becomes difficult to drive in the absence of it (Hobbs and Horne 2015: 127).

Demands for the state to create a favourable economic environment, for greater regulatory freedom, and for production incentives to promote higher economic returns are therefore viewed by mining houses as aligned with a redistributive mandate since they can in turn facilitate social spending. The sector has been outspoken in articulating the constraints to growth in the mining sector including labour, electricity and regulatory challenges, local authority management of infrastructure development and discretionary practices in the allocation of mining rights (Cronje et al. 2014: 5, CoM 2014). Declines in foreign investment, down from 25 percent in 2010 to 14 percent in 2013, have also been identified as evidence of state hostility toward the mining sector. Yet financial returns from the sector have not been invested in the energy sector, as might be expected if the private sector had actively embraced an integrated policy approach (Fine 2010).

Adjustment

The nature of the relationships between business and the state, and between business and labour have not favoured the realization of aligned complementary policy linkages. As

the state's credibility as a custodian of national development goals has been compromised, tripartite deliberative spaces have weakened and opportunities for corporatist compacts have receded. In this vacuum, in a climate of instability and mistrust, bilateral adjustment-type relations have become the primary channels for forging inter-stakeholder relationships.

A pragmatic overlap of interests has characterized the evolution of state-business relations through both conflict and cooperation, though rarely through active collaboration (Seekings and Nattrass 2015). The corporate sector has generally opposed interventionist approaches by the state, preferring voluntary agreements (Bezuidenhout et al. 2007). After 1996 South African mining companies benefited from state policies including benefits for foreign investors, trade liberalization and the insertion of South Africa into the global economy (Seekings and Nattrass 2015). Yet Seekings and Nattrass comment that these policies did not support a domestic growth coalition which would have required active collaboration, exchange of information, reciprocity, trust and credibility between state and business. A political commentator described the relationship as follows: “Big Mining and governments...don’t get along. They have enriched each other massively, almost always to the detriment of the general population, and yet they bitch and snipe and treat each other with mistrust. It’s a bad, if insanely profitable marriage” (Poplak 2017). The suspicion with which the state regarded established domestic mining companies, seen as complicit in the apartheid system and whose monopoly the state was commissioned to dismantle, limited their involvement in policy agenda-setting and negotiation (in contrast with labour). As a result, frustrated at lack of strong institutional representation, established South African business has been largely reactive and sought to operate profitably within the constrained environment shaped by the state (Seekings and Nattrass 2015). Lacking political influence beyond personal ties to political leaders, the business sector has nonetheless held considerable economic power through the threat of retrenchments, firm closures, capital flight, investment strikes and entrepreneurial exit. Many big businesses have been able to secure cheap electricity, lucrative public tenders (subject to having black partners) and capital subsidies. As was noted in the previous section, this climate has enabled murky deals between state officials and politicians, however it is only recently that these have implicated the most senior levels of leadership and are showing evidence of crowding out institutional channels and moving toward becoming endemic in the sector (Bhorat et al. 2017).

The dual way in which the state has fostered relationships separately with business and labour has meant that business has been excluded to a large extent from the regulation of employment and wages which remained within the remit of the African National Congress’ (ANC) commitments to organized labour. In response to demands for better pay and working conditions on mines, intransigent companies have tended to increase their reliance on subcontractors and mechanization, creating situations where the casualization of labour has led to wage reduction and increased insecurity, contradicting the social gains achieved through other channels (MacMillan 2012, Jourdan 2014).

Several key incentives have driven the private sector’s direct dealings with unions and civil society organizations: the need to diminish social conflict and improve national social stability, to provide a more conducive business environment in terms of skills and better human resources, and to gain legitimacy in local communities. Mining corporations have increasingly acknowledged the importance of involving unions and civil society in their operations but have been unable to overcome the fault lines of discontent (see section 5.3). In response to protests about excessive wage gaps and the living conditions of mineworkers, intransigent companies have been inclined to respond that wages were

higher in the mining sector than any other. Unilateral employer actions around retrenchment have fuelled growing tensions. The preference by the mining industry for centralized industrial bargaining, for example around wages, has excluded small businesses, smaller union and business players, and ignored the concerns of mineworkers, fuelling discontent and violence (Harvey 2016, Webster 2013).

Summary

The private sector has historically dominated the mining landscape, with economic interests paramount. The analysis suggests that the corporate mining sector's relationship with intersectional policy is mixed. On one hand it sees itself as carrying a disproportionate burden for the achievement of economic and social goals. It also straddles across different views of how social goals in particular should be achieved, either indirectly through the state's redistributive functions or directly through CSI and BBBEE interventions. On the other hand, despite some degree of endorsement of the intrinsic and autonomous value of social and environmental goals, these are counterbalanced by the stance that social and environmental disadvantages to specific populations can be offset by potential human development gains to the population as a whole, absolving private companies from directing the focus of their core business to the sustainable development of their constituent communities (Mushonga 2012). Furthermore, the analysis suggests that in a climate of global pressure on mining, common perceptions within the private sector are that intersectoral policy has detrimentally constrained its autonomy and ability to fulfil its mandate through regulation and over-responsibility.

5.3 Labour: Living at the “coalface” of intersectoral linkages

Overview

Labour interests in South Africa have played a unique role in brokering the relationships that affect the coordination of social and economic policy, and environmental policy to some extent.

As in many developing countries, rather than representing a broad-based labour movement, South African unions tend to represent more privileged working class groups (López-Cariboni and Cao 2015). There has been a growing divide between trade union officials, increasingly involved in party politics, and their diminishing constituencies of formally employed mineworkers. This divide can be seen even more with mine workers who are outsourced into precarious and lower paid jobs or who are retrenched and become desperate job seekers, with little access to the rights established by the formalized industrial relations system (Webster 2013).

Since 1994 the NUM, an affiliate of the Congress of the South African Trade Unions (COSATU), has been the dominant representative of organized labour. But as the gap between established trade unions and their constituencies has widened emergent groups have formed causing a fragmentation of the labour movement. The shootings of 34 miners at the Lonmin mine at Marikana in 2012 and the prolonged platinum mines strikes in 2013 and 2014 drew worldwide attention to the current living and working conditions of miners. The growing discontent of unskilled workers with the NUM elites created a vacuum filled by a new trade union, the Association of Mineworkers and Construction Union (AMCU), which very rapidly positioned itself to represent the interests of disenfranchised workers and challenged the NUM for dominance, particularly in the platinum sector (Foudraine 2014). Inter-union competition drew the balance of power away from COSATU and raised the lid on a working class still divided by race, gender,

class and access to skills. The persistence of the racial and hierarchical organization of labour (with a predominantly white management and a black workforce) has contributed to a workplace culture characterized by low trust, low skills and an adversarial nature (Webster 2013).

Autonomy

In terms of labour's autonomy, established trade unions have enjoyed extensive institutional and administrative capacity through which to defend the interests of workers. In the years after the fall of apartheid COSATU and its affiliate organizations developed strong workplace institutions and comprised “a very substantial set of organizations, with more than 1,800 full-time officials, a dedicated parliamentary office and a research wing” (Webster and Buhlungu 2004 in Seekings and Nattrass 2015: 222). As a result, they exercised considerable autonomy to advocate for social policies on behalf of the workers they represented, overseeing tangible improvements in wages and living and working conditions in line with legislative reforms. Unions have taken up issues related to asbestos, mercury, uranium and cyanide poisoning due to industrial pollution, and action on health and safety and environmental matters. They have also created civil society organizations, such as the Mineworkers Development Agency, established by NUM to mitigate retrenchments and retrain migrant miners who returned to rural bases (Bezuidenhout et al. 2007). Unions have acted in support of better social and environmental practices through NEDLAC and other environmental initiatives. Trade unions have had less autonomy on matters of macroeconomic policy, though generally supportive of greater state intervention (Seekings and Nattrass 2015). Conversely, in stark contrast with the organization of influential trade unions, as the common labour caucus has splintered marginalized unskilled workers have found themselves increasingly bereft of the technical expertise and organization necessary to exert agency and to channel their dissatisfaction and disenfranchisement. Harvey (2016) notes for example how the financial illiteracy of miners exposes them to exploitation by unscrupulous microlenders.

Alignment

Given their historical trajectory as partners with the state there has been a natural alignment of trade unions with public policy redistributive mandates, even to the extent of holding the Government to account when it was perceived to be straying from its original vision, for example in its GEAR framework. Also, in line with a broad vision of poverty and inequality alleviation, trade unions have frequently promoted the interests of the poor, transcending the confines of their membership. For example, trade unions have been strong supporters of the campaigns to introduce a basic income grant and to extend free medical treatment to people living with HIV/AIDS, social grant policies and the National Health Insurance programme. Their support for environmental policies has been more nuanced, as evidenced by their response to the “green jobs” Government initiative in 2011 where moderate support was made conditional on the prioritization of the creation of jobs and the reduction of poverty and inequality, ahead of environmental goals (Sikhakhane 2011). However, its support for initiatives that provide support for the unemployed and those unable to work has occurred without necessarily challenging the status of formally employed workers, or extending membership more widely. The primary role of trade unions as an interest group has been to preserve the interests of their current membership, which comprises non-poor sections of the working and lower middle-income classes (Friedman and Groenmeyer 2016).

Adjustment

Stretched by internal struggles and dissent, the established trade union movement has further restricted its demands for equitable redistribution of resources, and favoured

adjustment-type partnerships with business and the state, centred on an increasingly narrow and unstable overlap of interests. Labour has responded to the Government's concurrent pursuit of labour support and macroeconomic growth in several ways. Relying on its political power derived from its closeness to state structures and the state's dependence on the major trade unions for electoral support, organized labour has prioritized wage increases over job creation demands, avoided national wage deliberation or other policies *restraining* wage increases, and lobbied the state to pass legislation that limited outsourcing (Nattrass 2014b). As a result, average mine wages rose by 21 percent in real terms between 2014 and 2016, a far greater increase than was paid in any other sectors, while at the same time the mining industry has shrunk as a source of employment (Cronje et al. 2014).

Despite overlap between the interests of labour and business for stability in the industry, the established channels for mutual cooperation and dispute resolution have proved inadequate to manage the widespread discontent that has emerged in the mines. The establishment of the Commission for Conciliation, Mediation and Arbitration (CCMA) under the Labour Relations Act of 1995, to resolve workplace disputes was significant in arbitrating between employers and employees. Though initially effective in reducing conflict, strike action has increased steadily and dramatically, revealing social and economic divisions that the institution was unable to administer. The CCMA has been increasingly by-passed as militant strikes and workplace conflict have surged. Alienated by the loss of representation by the elite ranks of trade unions, who have accumulated immense wealth through the BBBEE-fuelled world of speculative business deals, workers have at times justified violence as a necessary element in maintaining worker solidarity (Webster 2013).

Summary

In summary, these observations provide an explanation for why the trade unions have acted strongly on behalf of the workers they represent and made a significant contribution to addressing poverty and inequality, but have only gone so far in challenging the skewed distribution of power and privilege that still undergird the economy. The role of labour in contributing to the realization of intersectoral policy is complex. Trade unions in South Africa have been strong proponents of social policies but there has been a weakening of intentionality around a developmental mandate for integrated social and economic linkages. Mining trade unions are divided and differ in terms of their perceived "closeness" to miners and other stakeholders. Conflictual relations (leading for example to the Marikana killings) have resulted from distrust between workers and mine management and rivalry between different non-aligned trade unions, as well as the role that unscrupulous microlenders play in exploiting mineworkers. In a context dominated by powerful interests, the agency of workers themselves has been restricted. Internal and political struggles between trade unions have limited the effectiveness of their representation of workers' interests. Faced with unstable and unfavourable economic, social and environmental arrangements miners have been perceived to have responded through both peaceful and violent action. Yet over time, in response to stronger legal protections, there are signs of increased agency as expressed for example through recent court settlements in their favour.¹⁷

¹⁷ See section 5.4 for details of these recent cases.

5.4 Civil society: Balancing legitimacy and sustainability

Overview

Civil society is envisaged as an important partner in the pluralistic implementation of policy in South Africa, particularly within the social sector (Patel 2015). A vibrant civil society has played a crucial role in achieving the progressive realization of social, economic and environmental rights through both collaborative and adversarial means, in the mining sector as well as many others. Yet the nature of not-for-profit organizations and their relationships with other stakeholders has evolved over the past 20 years. Broadly, two types of voluntary and not-for-profit organizations have developed. First, for some the focus has been on service delivery, drawing on a long history of expertise and infrastructure, supported through legislative and tax frameworks, and increasingly funded through corporate support (Bezuidenhout et al. 2007, Patel and Graham 2012). Second, a more critical stance in the mining field has been assumed by groupings of non-governmental organizations (NGOs) and civil society organizations (CSOs) (such as the Alternative Mining Indaba platform), who are supported by public-interest legal firms (such as the Legal Resources Centre and the Centre for Environmental Rights), draw on their legacy of resistance against apartheid, and who have vociferously taken on a greater role in monitoring corporate environmental damage and access to socioeconomic and environmental rights (Bezuidenhout et al. 2007, Theart 2017).

Autonomy

The autonomy of CSOs varies greatly in terms of their capacity to defend social and environmental interests. Partnerships with global social movements and donor financing from foreign NGOs or development agencies are some factors which have allowed organizations to maintain independence from state or corporate support and to play a role as whistle-blowers (Hamann and Bezuidenhout 2007). National civil society coalitions, including prominent organizations such as the Mining-Affected Communities United in Action (MACUA), have been instrumental in highlighting: industrial malpractices; the differential power of stakeholders and the lack of agency of mineworkers; the health, safety, working and living conditions of workers; levels of unhealthy cooperation between mining corporations and the Government; the lack of representation of workers by trade unions; and the detrimental social and environmental impacts of mining, in terms of land and water availability and quality, on local farmers and traditional communities on whose land minerals are found (van Wyk et al. 2008). Policy and advocacy groups have successfully campaigned for legislative amendments to limit the ambiguities that have created latitude for non-compliance and lost opportunities for sustainable practice. As a result, the National Environmental Management Laws Amendment Act of 2014, clearly defined mining stockpiles as “waste”, thereby placing the onus on mines to dispose of the residue (Burnell 2014). Due to previous legislation that did not place the responsibility of mine closure and clean up on the mines themselves, Government and taxpayers had previously borne the brunt of responsibility for the rehabilitation of the roughly 6,000 mines that closed prior to 2014, with these costs exceeding annual mining revenues (McCarthy 2011, WWF 2012).

The voluntary sector has also demonstrated high levels of internal mobilization in high profile litigation against multinational companies, for example in the case of 7,500 South Africans with asbestos-related diseases who sued United Kingdom based Cape plc in the British courts and won a large out-of-court settlement in 2002 (Hamann and Bezuidenhout 2007). Recently an out-of-court settlement was also reached between 4,365 silicosis-affected mine workers, AngloGold Ashanti and Anglo American SA (two of the

largest mining companies in South Africa), which led to the establishment of a compensation fund to cover their medical bills (Nicolson 2016).

Nonetheless, civil society has also decried its lack of influence within a mining industry dominated by powerful interests (Bezuidenhout et al. 2007). Meanwhile, critics from the private sector have expressed frustration at their “social partners” lack of capacity to engage in multilateral policy making, for example at NEDLAC, contributing to the time-consuming nature of decision-making (Webster 2013).

Alignment

The role of civil society in pursuing an alignment agenda has changed considerably. In the early 1990s civil society had a mainstream role in the realization of national development goals. Given its origins in the liberation movement there was a natural alliance between the newly formed Government and progressive think tanks, NGOs and community organizations in which “ministerial and bureaucratic appointments were closely aligned with civil society, and drew from this base for intellectual support” (Bezuidenhout et al. 2007). Civil society has been acutely aware of shifting relationships. In interviews conducted with activists in the mining sector, the view was expressed that “there is a lot more cooperation between the Government and mining industry than there seems to be on the surface, with one organization’s representative accusing the Government of having one foot in the labour movement and one in the mining industry. This is what leads to the inconsistent policies that are so detrimental to the industry” (Cronje et al. 2014: 14).

The alliance between civil society and trade unions around national development goals, particularly in the mining sector, has also been challenged by the fragmentation of the trade union movement. Without the trade unions, CSOs “are unable to play the role once played by unions and...they are not equipped to lead an effective campaign for the redistribution of power and resources” (Friedman 2012: 86).

As the natural overlap between state, labour and civil society interests has gradually receded, and spaces for multilateral policy making such as NEDLAC have been sidestepped, civil society has drawn on other inter-stakeholder relationships to further their goals in several different ways: through the courts, with business through CSI and by affiliating with broader populist protest movements.

Although civil society has moved toward more adversarial positions and become more vocal in its criticism of the state (and of business), the state’s legal courts (particularly the Constitutional Court) have been viewed as “allies”. Excluded from deliberative processes, civil society has identified the court’s role in “upholding democratic process, by respecting citizen agency and protecting the voice of the marginalized and levelling power asymmetries that can skew legal negotiations” (Friedman 2016). Particularly in the face of private (and state) interests which sought to argue for narrow and separate interpretations of social and environmental legislation, civic organizations and coalitions have in many instances resorted to the courts to defend the broad boundaries of social and environmental rights against encroachment from other interests. Accordingly, the courts have repeatedly affirmed their broad mandate in interpreting the meaning of sustainable development and their understanding of the relationship between social, economic and environmental matters which are viewed as “inexorably linked”. In one such case the courts affirmed that “by elevating the environment to a fundamental justiciable human right, South Africa has irreversibly embarked on a road, which will lead to the goal of

attaining a protected environment by an integrated approach, which takes into consideration, inter alia, socioeconomic concerns and principles”.¹⁸

New trends in cooperation have developed between some sections of the voluntary and business sectors in response to NGOs’ need for sustainable funding sources and mounting pressure on mining houses to embrace social responsibility strategies (Bezuidenhout et al. 2007). Civil society has aided this partnership in two opposing but decisive ways. On one hand, in tandem with global organizations and certain investor groups South African organizations have initiated public campaigns that utilized evidence of environmental and social damage to counter the notion that economic benefits accrued (unequally) though mining could justify allowances that compromised the health and environment of many mining communities (Adler et al. 2007, Humby 2015, Mushonga 2012). Combined with bad press and production delays these campaigns have fuelled consumer-led demand for socially and environmentally responsible practices (Kapelus 2002: 276). On the other hand, in response to this growing and well-funded space the voluntary sector has developed income-generating strategies which range from small-scale economic enterprises to deliver social service functions, to partnerships with the private business sector to implement CSI programmes and to innovative empowerment partnerships with other commercial consortia bidding for large public contracts and the licensing of public services (Patel 2015). Overall, these developments have started to blur the lines between for-profit and not-for-profit stakeholders and interests. As a result, CSI remains an uneasy arena for cooperation between civil society and business, caught between the mining industry’s perceptions of disproportionate and restrictive social and environmental demands and civil society’s conflicting positions: both viewing CSI as a vehicle for restorative justice to redress the legacy of apartheid (Siyobi 2015) and as a necessary channel for funding, but also remaining critical of social and environmental interventions by private interests that are ultimately palliative and motivated solely by the need for a “cloak of legitimacy” which can allow mining activity to continue with minimal disruption and cost (Kapelus 2002: 280).

The struggle to find common ground in relationships between civil society and state or private stakeholders is exacerbated in the context of high levels of social unrest. Activists have insisted that consultation with communities and the development of inclusive and sustainable solutions (for example through a proposed “One Million Climate Jobs” campaign) cannot be compromised or by-passed for the sake of short-term equilibrium. In this vein a leader of MACUA proposed that the DPME-led Operation Phakisa (“Hurry Up”) should be replaced by Operation Bhekisisa (“Look Closely”) (Rutledge 2017). A further example of the contentious spaces in which adjustment-type relationships are negotiated occurred in 2017 when about 150 community-based organizations, represented by the Centre for Applied Legal Studies, sought to find a common basis with the Chamber of Mines for opposing the Mining Charter by joining an existing case brought by mining companies against the charter. The case confirmed deep fault lines between stakeholders, and the request was rejected by the Chamber but later overruled as acceptable in a High Court Ruling (Omarjee 2017).

Reacting to the perception that the state has moved away from its role as an agent of redistribution (Bezuidenhout et al. 2007) and hostile to partnerships with the private sector, some civil society groups have supported nationalization of the mines as “the only possible response that could meet the socioeconomic expectations of people working in the mining industry” (Cronje et al. 2014: 13). More broadly, civic organizations have identified with widespread protests which have become a channel for public discontent,

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triggered by local struggles around service delivery failures and labour disputes (including in mining and off-mine communities) but also representing common demands for greater levels of redistribution and a shift from a mixed economy to a more statist, transparent and participatory regime (Seekings and Natrass 2015).

Summary

Civil society, in many areas including in relation to mining, has moved from having a central role in negotiating and implementing South Africa's developmental path toward the margins of policy making. Nonetheless, legislation has provided space for citizens to take on industries that adversely affected the health and livelihoods of mining communities and to take their claims for adjudication in court. Straddling a spectrum of evolving collaborative and confrontational positions, civic organizations have taken advantage of this space and raised the level of importance accorded to social and environmental aspects of mining. Relationships with state and business stakeholders are varied, reflecting tensions between the need to maintain legitimacy and the need to raise sustainable incomes.

6. Policy Intersections: Analysis and Conclusions

South Africa presents a wealth of insight into the processes of integrated policy making and implementation. As in many other countries, South Africa continues to grapple with the challenges of social, economic and environmental rights as both a normative and substantive reality, as a future goal to constantly aim toward and as a present standard against which to be evaluated.

This paper has focused on understanding the mechanics of policy intersections. We have commented on the relationships between social, economic and environmental policy documents and between policy-implementing actors, in relation to their degree of internal autonomy, strategic alignment and pragmatic adjustment. In this section we return to the leading research question about whether social, economic and environmental policies have been planned and implemented in a complementary manner in the mining sector toward a redistributive paradigm. In conclusion, tentative reflections are suggested regarding the factors that support or hinder complementary policy making in practice.

6.1 In what ways does policy complementarity support the achievement of redistributive and sustainable outcomes?

Table 2 summarizes the themes presented in this paper. Public policy and mining legislation analysis provides insights regarding the design of complementary policies, while the study of inter-stakeholder relations refers to the implementation of intersectoral policy. Overall, the findings demonstrate that intersectoral policy connections are necessary but not sufficient for the achievement of more equitable outcomes for the majority.

Table 2: Policy intersections—policy mandates and policy actors in the mining sector

	Policy mandates: policy and legislative documents	Policy actors: state, private sector, labour and civil society
<i>Autonomy</i>	<p><i>Public policy:</i> Post-apartheid policy mandates have recognized the intrinsic (not just instrumental) significance of environmental and social policy. Social, economic and environmental policy are all accorded an important role in the Constitution, the RDP and most recently the NDP, but less so in the GEAR strategy. The importance of social policy has been reiterated at various points.</p> <p><i>Mining:</i> The MPRDA, together with NEMA, and the Mining Charter have defended the interdependence of environmental, economic and social interests to a much greater extent than was the case pre 1994. Yet in a context of strong vested interests and divided state priorities, policy has vacillated in the priority accorded to social and environmental considerations vis-à-vis economic ones. As a result legislative reform has been in a state of stalemate for several years.</p>	<p>Sectoral autonomy varies with different players wielding different levels of negotiating power. Economic interests have tended to dominate the sector. Under pressure from investors, there has been some realignment with social and environmental goals in the private sector, supported by civil society and the courts. The representation of environmental interests has grown over time in strength and scope, yet has historically lagged behind in terms of influence, frequently acquiescing in practice to social and economic interests. Clientelism and patronage have compromised the autonomy of several state departments including the DMR.</p>
<i>Alignment</i>	<p><i>Public policy:</i> Very strong in the Constitution and RDP but integration has weakened in subsequent documents. The NDP has been seen as a return to coordinated planning but is more multi-sectoral than intersectoral.</p> <p><i>Mining:</i> Notions of sustainable development have been superimposed on the mining sector at a late stage in its development. There has been some progress in establishing the links between economic, social and environmental policy though many areas of ambiguity and lack of clarity remain. The potential for labour-absorbing and local economy development by the mining sector through supplier industries is emphasized in policy documents. The impasse on amendments to the MPRDA and the Mining Charter have reduced clarity about the precise meaning and aims of transformation in the mining sector.</p>	<p>National development goals for the mining sector are interpreted very differently by different stakeholders. Views vary even between state departments. The state's coordination role has been severely compromised through "state capture". The mining industry sees itself as playing a key role in integrated policy implementation through job creation, black economic empowerment policy and the upliftment of disadvantaged communities. The transformative role of the mining industry in job creation is also implicitly acknowledged by the state and by trade unions to some extent. However, CSOs and miners highlight profit-driven agendas, the precarious nature of employment and perfunctory approaches to sustainable environmental management. In a context of low trust, multi-stakeholder platforms such as NEDLAC and MIGDETT have struggled to provide a legitimate and level playing field for the development of a social pact between state, business, labour and civil society.</p>
<i>Adjustment</i>	<p><i>Public policy:</i> Growing accommodation of multiple (and not necessarily integrated) ideologies representing proponents of different sectors.</p> <p><i>Mining:</i> Social, economic and environmental policies are held together in tension through trade-offs rather than strategic integration. Legislation is influenced by intense negotiation between powerful, juxtaposed and competing stakeholders. There has been an ongoing legislative wrangle regarding the custodianship of environmental policy. The private sector (and civil society) have been strongly opposed to perceived unilateral state actions toward legislative amendments.</p>	<p>Pragmatic expedient relationships have mirrored policy tensions with the sector experiencing severe conflict and instability, for example between labour, state and private institutions, as well as within the labour movement. Cases of overlapping interests are present, for example the interests of off-mine communities and private interests converge around the creation of employment opportunities, yet these areas of negotiation are primarily limited to short-term aims and often exclude long-term convergence of goals such as environmental sustainability.</p>

Overall, table 2 paints a mixed picture regarding the direction of the mining sector toward the achievement of sustainable and redistributive goals for the majority of the South African population. The study has described the robust post-apartheid legislative and policy framework as favouring a broad intersectoral policy remit for national transformation, which transcends and harnesses sectoral agendas. Policy and legislative documents have made great progress in establishing links and boundaries between economic, social and environmental policy, including for the mining sector. The Constitution in particular provides a very strong blueprint for interdependent and integrated policy, and over time has guaranteed a safeguard against political vagaries. Over the past two decades the wages and living and working conditions of workers and their households in the mining sector have improved. The Mining Charter has increased monitoring of human resource development, employment equity, migrant labour, mine community and rural development housing and living conditions, procurement, ownership and beneficiation. Ownership and management has been de-racialized and devolved to a limited extent. Environmental compliance is more closely monitored. Within the broad policy mandate established in the Constitution, despite notoriously antipathetic inter-stakeholder dynamics, the analysis has shown a slow rapprochement between different interests: painstaking and by no means linear or enthusiastic but in the direction of greater alignment nonetheless. There is broad agreement between stakeholders that the use of mining resources should accomplish social, economic and environmental aims, despite extensive disagreement regarding which institutions are responsible for the achievement of each of these aims.

Yet serious impediments challenge progress toward the realization of sustainable development goals. Overall, legislative reform has stalled. Policy models that prioritize economic growth and defer secondary redistribution coexist alongside efforts to align social and economic sectors according to an overarching developmental model. “State capture” has compromised the state’s legitimacy as arbitrator of the mining sector. Responsibility for the well-being of the mining workforce, mining communities, for social redistribution and for environmental preservation are reluctantly juggled between employers and the state, with civil society acting as both a vocal advocate and compliant implementer. Trade unions have been weakened by internal divisions. In the past few years the mining sector has stuttered forward accompanied by strike protests, environmental court cases and economic volatility.

A particular focus of this paper has been to examine the institutional arrangements that have fostered intersectoral policy complementarity, within the state and between state and non-state stakeholders. The first decade of democracy was the most fertile in terms of cross-departmental initiatives, arising from a strong shared commitment to post-apartheid values and a smaller pool of policy makers with a strong trans-departmental mindset. As the state has matured and vertical structures have become more cemented, the state has supported several routes for intersectoral policy making. Over the past two decades an array of channels for consolidating the multiple and fragmented interests represented both within the state and between stakeholders have been initiated (in the mining sector and more broadly) through the RDP office, NEDLAC, MIGDETT, Operation Phakisa, and the DPME among others. These platforms have served to some extent to equalize the distribution of power between business and labour and for the partial adoption of a shared national agenda. While the involvement of civil society in several of these platforms is laudable, the lack of inclusive representation (for example of workers and small and medium-sized employers) has restricted their effectiveness and legitimacy. Several state tactics remain a stumbling block toward integrated social, economic and environmental

development: inconsistent adherence to multi-stakeholder platforms, the concurrent pursuit by the state of separate bilateral channels of negotiation with business and labour, the “turf wars” between the DMR and the DEA over environmental jurisdiction, and the state’s loss of legitimacy through rent-seeking behaviour. Overall, despite gains, the legislative impasse and low levels of trust between stakeholders cast a shadow over the potential for sustainable and redistributive outcomes.

6.2 Conclusion: What factors promote policy complementarity?

This paper has argued that social outcomes are best achieved when complementarity between social, economic and environmental policy is achieved within the constraints posed by sectoral and intersectoral institutional capacity. This is an important theme within current discussions of social policies in the Global South, which require a broad perspective of national contexts and of the policy actors through which policy decisions are made and implemented. This paper has commented on the quality of complementarity and the extent to which social outcomes have been achieved through the mining sector in South Africa. We conclude with three reflections that arise from this study regarding factors that can promote policy complementarity.

The importance of multilateral platforms: There is necessity for a range of institutional arrangements that can accommodate dialogue and negotiation between representatives of the state (central and departmental), business (including large, medium and small enterprises), established and emerging labour, and civil society. This conclusion is in line with what several authors and analysts have described as the “social pacts” necessary for integrated and sustainable development in the South African context. From the perspective of industrial relations, Webster (2013) discusses the need for a social pact to overcome the low levels of trust between business, labour and the state. Mkandawire similarly refers to a developmental pact which can hold in balance “patient labour” and “patient capital” (Mkandawire 2012). While the case study has shown how some institutions such as NEDLAC have performed such a role to a limited extent, their decreasing status also bears witness to a shift away from “robust, competent public institutions at the centre of development matrix” (Evans 2010: 37). Such multi-stakeholder institutions importantly require representatives with decision-making authority, “political will to contain both elite and popular expectations” and capacity-building for partners (such as civil society representatives) to overcome power differentials between stakeholders.

Despite the painstaking and time-consuming nature of multilateral deliberations, the study has shown how bilateral negotiations between public, private and voluntary stakeholders based around pragmatic and expedient overlap of interests are primarily limited to the achievement of short-term aims. For example, the interests of off-mine communities and private interests converge around the creation of employment opportunities, yet these can tend to fall short of long-term convergence of goals such as environmental sustainability and community development, leaving large constituencies excluded from accruing benefits.

The study also highlighted how parallel rather than integrated implementation of social, economic and environmental goals may compromise the achievement of sustainable goals. The tripartite relationship between trade unions, big business and the state has arguably reduced the interaction between economic and social policies, making a significant contribution to addressing poverty and inequality but not going so far as challenging the structure of the economy and labour markets. The separation of social and economic approaches served the institutional interest of maintaining the status quo to

a greater extent than structural interventions which could alter the architecture of the labour markets.

Retention of sectoral expertise within state structures: The state in particular carries an unenviable task in supporting the primary interests of the private sector, labour and environmental actors respectively through its different departments, while needing to coordinate, mediate and channel their respective contributions toward equitable overall outcomes for the population. The mining sector represents a complex intersection between social, economic and environmental policies that require both sectoral and intersectoral technical expertise for their effective implementation. This case study has shown how the interface between sectoral and intersectoral policy mandates and actors is key to complementary policy making. In the first decade post-apartheid, the state's role in legislative and institutional reform nurtured the growing autonomy, voice and administrative expertise of social and environmental interests (historically less powerful than economic interests) to shape the industry toward more equitable outcomes. The retention of technical and bureaucratic expertise within vertical departments and central planning institutions of the state is a key element for ongoing legislative reform and regulatory oversight, in line with national development priorities. The findings suggest that the premise that joined-up policy is necessary to address challenging issues such as poverty and inequality in order to achieve redistributive outcomes must be continually examined in the light of current levels and distribution of capacity for intersectoral policy implementation.

Legislation and the courts: The South African case study provides a remarkable example of how policy enshrined in legislation provides bulwark for restraining policy implementation within the broad remit of national development goals, as well as protecting the confines of social and environmental jurisdiction. Legislation can also provide a robust basis for an independent and informed court system to elucidate the intersections between social, economic and environmental policies, to widen the scope of their application, and to rule in the direction of equalling power imbalances. The case study however has also highlighted the real threat posed even to robust democracies by practices of corruption and "state capture", which may place disproportionate pressure on core legislative and judiciary institutions.

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